

May 13, 2002

VIA FACSIMILE & U.S. MAIL

Commissioner Carl W. Wood
Commissioner Geoffrey F. Brown
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

The Honorable Bruce DeBerry
Administrative Law Judge
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Re: A. 02-01-035, Application And Request of Southern California Edison Company For *Ex Parte* and Expedited Approval of Proposed Qualifying Facility Contract Amendments, Agreements and Certain Amendments Thereof Executed After July 31, 2001

Dear Commissioner Wood, Commissioner Brown and Judge DeBerry:

On January 25, 2002, Southern California Edison Company ("Edison") filed the captioned application (the "Application"), seeking approval by the California Public Utilities Commission ("Commission") of certain agreements resolving disputes under sixteen qualifying facility ("QF") contracts arising from Edison's suspension of payments to QFs during the period November 1, 2000 through March 26, 2001 ("QF Payment Suspension"). The Commission has confirmed that its prior decisions approving similar agreements extends only to agreements entered into on or before July 31, 2001 (the "Safe Harbor Deadline"), and that any agreements entered into after the Safe Harbor Deadline would have to be approved through the filing of a new application. See D.01-09-021. The Application, which the Commission has not yet acted on, was filed in response to this clarification.

This letter advises the Commission of recent developments affecting several of the agreements included within the Application.

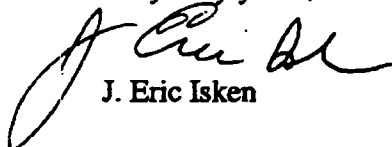
First, effective May 9, 2002, Edison has terminated the agreement with U.S. Borax, Inc. ("Borax") (QFID 2019), Exhibit SCE-11, pursuant to a provision that permitted either party to terminate if "Commission Approval" (see note 2 below) of the agreement were not obtained by a particular date. The termination of the Borax agreement leaves intact a separate "Conditional Release and Waiver" between the parties that is not within the Application and which the Commission was advised of in a March 15, 2002 letter from Edison's counsel in this proceeding.

In addition, several of the subject Fixed Rate Agreements¹ terminate automatically if Commission Approval, which includes the expiration of time to file an application for rehearing of any Commission decision, is not obtained by June 1, 2002.² Because the Commission has not yet acted on these agreements, it is clear that there will be no Commission Approval of the agreements by June 1, 2002.³ Edison has concluded that it is not in the interests of its customers to further extend the current June 1, 2002 termination date applicable to these Fixed Rate Agreements. Thus, these Fixed Rate Agreements, and related Changed Circumstances Amendments, will terminate on June 1, 2002.⁴ The QF projects whose Fixed Rate Agreements (and Changed Circumstances Amendments) will terminate on June 1, 2002 include: Pacific Energy Operating Group (QFID Nos. 1018 and 1022) (Exhibits SCE-16-17), Calleguas Municipal Water District (QFID Nos. 4010, 4022, 4052 and 4152) (Exhibits SCE-3-6), Daniel M. Bates, et al. (QFID 4030) (Exhibit SCE-7), and San Gabriel Hydroelectric Partnership (QFID 4029) (Exhibit SCE-15). As in the case of the termination of the Borax agreement, the termination of these renewable agreements will leave intact "Conditional Release and Waiver Agreements" between Edison and these parties, as identified in the March 15, 2002 letter from Edison's counsel.

Please advise the undersigned if the Commission desires any additional information regarding these matters.

Thank you for your consideration.

Very truly yours,



J. Eric Isken

-
- ¹ "Fixed Rate Agreements" were used to resolve disputes with renewable QF projects. They typically provide, among other things, for a five-year 5.37 cents/kWh fixed energy price to be paid to the QF in lieu of energy payments based upon Commission-approved short-run avoided cost ("SRAC"). See Application at 11.
- ² See e.g., Fixed Rate Agreement For Pacific Energy Operating Group, L.P. (QFID 1018), Exhibit SCE-16, Section 4.2 ("Commission Approval" means, *inter alia*, a decision of the Commission no longer subject to appeal which confirms Edison's entry into the agreement and payments made thereunder). These agreements originally provided that they would automatically terminate 120 days after execution if Commission Approval had not been obtained (or waived by Edison) by that time. *Id.* at Section 4.13. Edison later agreed with these QFs to extend the automatic termination date to June 1, 2002.
- ³ Any party may file an application for rehearing of a Commission decision within 30 days after the date of issuance of the decision. *Cal. Pub. Utilities Code* § 1731(b). Because less than 30 days remain prior to June 1, 2002, it is clear that Commission Approval, as defined in these agreements, cannot occur before the June 1 automatic termination date.
- ⁴ As explained in the Application, the Changed Circumstances Amendments modified the terms for paying alleged past due amounts owed by Edison to these QFs, and certain other terms, to take into account the failure of an anticipated legislative solution to Edison's creditworthiness problems and the change in circumstances caused by the October 2001 settlement of certain federal litigation between Edison and the Commission. See Application at page 2, n. 1. The Changed Circumstances Amendments, like the underlying Fixed Rate Agreements, currently terminate on June 1, 2002 if Commission Approval of these Changed Circumstances Amendments is not obtained (or waived by Edison) by that time.

cc: A.02-01-035 and All Parties of Record in R.99-11-022 Service Lists (via e-mail)
President Loretta M. Lynch (via facsimile and U.S. mail)
Commissioner Henry M. Duque (via facsimile and U.S. mail)
Commissioner Michael R. Peevey (via facsimile and U.S. mail)
Paul Nakamoto, Pacific Energy Operating Group, L.P. (QFID Nos. 1018 and 1022) (via facsimile and U.S. mail)
George Mulligan, Calleguas Municipal Water District (QFID Nos. 4010, 4022, 4051, 4152) (via facsimile and U.S. mail)
Kenneth G. Davlin, San Gabriel Hydro Partnership (QFID No. 4029) (via facsimile and U.S. mail)
Daniel M. Bates, Daniel M. Bates, et al, (QFID No. 4030) (via facsimile and U.S. mail)